



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS

ARMY CORPS OF ENGINEERS CENTRE

190 FIFTH STREET EAST

ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

MAY -13 2001

Construction-Operations
Regulatory (01-02777-MOK)

Mr. William J. Patterson
White Pines Family Fun Center
4331 Islandview Road
Rhineland, Wisconsin 54501

Dear Mr. Patterson:

This regards your March 9, 2001 letter, to Michael O'Keefe in our Stevens Point field office, requesting whether the Army Corps of Engineers has regulatory authority over the wetland that is located on your commercial property. This request pertains to the recent U.S. Supreme Courts decision in Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers (the SWANNC decision) which affected the Corps ability to regulate isolated wetlands.

We have determined that the wetland located on your property is a part of the Pine Lake Creek tributary system which drains to the Wisconsin River, a Federal Navigable Water of the United States. Hence, the wetland that is located on your property is still subject to the Corps of Engineers authority under Section 404 of the Clean Water Act.

If you are interested in applying for a Department of the Army permit to discharge fill material in the wetland, we have enclosed an application form for this purpose. You can help expedite our permit process if you:

- Fill out the application completely and specifically.
- Send accurate drawings, including smaller 8½" by 11" copies for our public notice. The drawings should identify the boundaries of the wetland and the dimensions of the wetland to be filled.
- Please describe any alternatives considered when planning this project. This consideration should include other potential sites and other methods of accomplishing the desired result. Our regulations often prevent the issuance of permits where there are less environmentally damaging alternatives available. For instance, if the project involves placing fill in a water or wetland, there may be a way to accomplish the project purpose without filling, or without filling as large an area.

- The Wisconsin Department of Natural Resources (WDNR) has asked that we forward to you State Water Quality Certification Information Requirements. We request that you provide the information listed on the enclosure; send one copy to the WDNR Area Office and another to this office. Providing the information requested in the enclosure will also satisfy the request for an alternatives analysis contained in the preceding paragraph.

If you disagree with the enclosed jurisdictional determination, you may provide new information or appeal the jurisdictional determination. Please follow the directions in Section D of the enclosed Notification of Administrative Appeals Options and Process and Request for Appeal.

The decision regarding this action is based on information found in the administrative record, which documents the District's decision-making process, the basis for decision, and the final decision.

If you have any questions, contact Mike O'Keefe in our Stevens Point (Plover) office at (715) 345-7911. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,



Robert J. Whiting
Chief, Regulatory Branch

Enclosures

Copy furnished to:

Jayne Wade, WDNR, 107 Sutliff Ave., Rhineland, WI. 54501
Steve Osterman, Oneida Co. Zoning, P.O. Box 400, Rhineland, WI.
54501
Mike Cain, WDNR